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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re JOSHUA B., a Person Coming Under
the Juvenile Court Law.

B217913

(Los Angeles County
Super. Ct. No. J990637)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

MARCELLA G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Stephen Marpet, Juvenile Court Referee. Affirmed.

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and Appellant.

Janette Freeman Cochran, under appointment by the Court of Appeal, for minor Joshua B.

No appearance for Plaintiff and Respondent.

Marcella G., the mother of 19-year-old Joshua B., who remains a dependent child of the juvenile court because of his special needs, appeals from an order purportedly made at the review of permanent plan (RPP) hearing held on July 23, 2009 denying her any visitation with Joshua. (See Welf. & Inst. Code, § 366.3.)¹ Marcella G. has misinterpreted the juvenile court's comments at the review hearing and challenges an order that was never made. Any possible ambiguity with respect to that order was resolved at the subsequent section 366.3 RPP hearing on January 8, 2010 when the court directed the Los Angeles County Department of Children and Family Services (Department) to "assess in their next report the status of the mother and child's visits," plainly indicating that visitation between Marcella G. and Joshua had not been suspended or terminated.² Accordingly, the juvenile court's order is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

Joshua was declared a dependent child of the juvenile court in March 1997, when he was six years old, based on findings, in part, under section 300, subdivision (b), that Marcella G. had left him and his younger brother with inadequate supervision and the family home was unsafe and unsanitary. Family reunification services were terminated in May 1999, and Joshua was placed in long term foster care in December 1999.

¹ Statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² This court gave the parties notice of its intent to take judicial notice of the minute order entered after the January 8, 2010 RPP hearing and invited supplemental letter briefs addressing whether that order rendered the appeal moot. Counsel for Marcella G. "respectfully decline[d] the invitation to file a supplemental brief." Counsel for Joshua urged dismissal of the appeal as moot, arguing this court is unable to fashion an effective remedy because "[a]t the ongoing periodic reviews the juvenile court has addressed and will continue to address visits and exercise its discretion in determining whether visits with his mother are in Joshua's best interests." Counsel for the Department has taken no position on the visitation issue raised by Marcella G. and did not respond to our invitation.

Pursuant to Evidence Code sections 452, subdivision (d) and 459, subdivision (a), we now take judicial notice of the juvenile court's January 8, 2010 minute order.

Joshua, who suffers from serious emotional and behavioral limitations and has been diagnosed with mild mental retardation and attention deficit hyperactivity disorder, is a regional center client. Following his detention, he resided in a series of restrictive placements, generally with one-on-one supervision, and has been involuntarily hospitalized on a number of occasions. From February 2007 until early November 2008, several weeks before his 18th birthday, Joshua resided at the Alannah Group Home. On November 4, 2008 Joshua was placed in the foster home of Juliana A., who subsequently indicated she wanted to become Joshua's long-term caregiver (that is, following his emancipation and regional center placement) and stated she was in the process of obtaining the appropriate license to do so.

Prior to July 2008 Marcella G.'s visits with Joshua, almost always by telephone, were infrequent and sporadic. During Joshua's last year at the Alannah Group Home, however, her telephone contacts became regular; and she had a series of one-hour supervised visits. The situation with Marcella G. deteriorated after Joshua moved to Juliana A.'s home. According to Marcella G., she had difficulty communicating with Juliana A. and argued with her because Marcella G. believed the foster mother was keeping Joshua from her. According to the Department's January 22, 2009 status review report, Marcella G. had been "extremely inappropriate" toward both Joshua and Juliana A. and had threatened Juliana A., screamed at her and used profanities. Juliana A. told the social worker Marcella G.'s behavior had a negative effect on Joshua and was jeopardizing his placement.

At the RPP hearing on January 22, 2009 Marcella G., through her counsel, indicated she had concerns about Joshua's education, medication and placement and requested that Joshua be returned to her home. Joshua's attorney, however, reported that Joshua, who had been present at court earlier in the day, did not want to visit with his mother and did not want to live with her; he liked the foster home he was in and wanted to stay there. Joshua's lawyer elaborated, "He may change his mind at times, but, at this moment, he does not want to visit with her or live with her." Marcella G. told the court

she did not believe Joshua did not want to see her and insisted he had told her he wanted to come home. After briefly describing Joshua's "very, very serious problems" and his need for "24-hour, round-the-clock care and attention," the court ordered, "[I]t is in the minor's best interest not to have any contact with you. If he wishes to have contact with you, he can advise the social worker, and the visits will take place at a social worker's office, and the social worker will monitor those visits." The court then continued the matter to July 23, 2009 for a further RPP hearing. Marcella G. did not seek appellate review of the January 22, 2009 visitation order.

Joshua and Marcella G. had no visits between the January 2009 RPP hearing and the next hearing on July 23, 2009. In its status review report the Department explained its social worker had asked Joshua every month whether he would like to visit with his mother. In response Joshua became angry and started yelling, saying that Marcella G. had been mean to Juliana A. and he did not want to talk to her. When Juliana A. asked Joshua about visiting with his mother, the response was similar: He began yelling and became upset. The Department also reported it had been unable to contact Marcella G. since the January 22, 2009 hearing and Marcella G., who had accused the social worker of "turning Josh against her," had not initiated any communication with the Department.

At the July 23, 2009 hearing the court confirmed the plan for Joshua was from him to emancipate into a regional center facility. Marcella G.'s counsel then asked to be heard regarding Marcella G.'s "continued denial of visits with her son." The following exchange took place:

Marcella G.'s counsel: "The caretaker says the child does not want to visit with her, and she still wants to have contact with him."

The court: "This is an 18-year-old child. I can't force him to drink your water, Ma'am."

Marcella G: "They are lying. He wants to see me. I never hear this from my son. I only hear this from the social worker and the supervisor's mouth. Not once."

Joshua's counsel: "Your Honor, our office has spoken with Joshua. He has indicated the same thing. He does not want to visit mother. He does not want to have any contact with her."

The court: "All right. All other orders to remain. The matter will go over to January 8, 2010, for the next hearing date."

The minute order entered following the July 23, 2009 hearing states both, "All prior orders not in conflict shall remain in full force and effect" and "All prior orders is [sic] to remain in full force and effect." There is no specific order regarding visitation.

Marcella G. filed a timely notice of appeal from the juvenile court's "denial of visitation to mother" on July 23, 2009.³

A further RPP hearing was held on January 8, 2010. As reflected in the minute order entered following that hearing,⁴ the court directed the Department to attach a transitional independent living plan to its status review report for the RPP hearing to be held in July 2010 and to provide independent living plan/emancipation services to Joshua. The court's order also provides, "DCFS is to assist the child in his emancipation transition to regional center. DCFS may also assess in their next report the status of the mother and child's visits."

DISCUSSION

Although visitation is a necessary and integral component of any reunification plan (see *In re C.C.* (2009) 172 Cal.App.4th 1481, 1489; *In re S.H.* (2003) 111 Cal.App.4th 310, 317), once reunification services have been terminated and, as here, a

³ Marcella G.'s notice of appeal identifies "any and all orders made by the court [on] 7-23-09, including but not limited to denial of mother's objection to medication, denial of visitation to mother." However, Marcella G. has not raised any issue other than the purported denial of all visitation. (See *Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979 [it is not appellate court's function to address arguments not raised on appeal]; *Reyes v. Kosha* (1998) 65 Cal.App.4th 451, 466 [appellate review limited to issues that have been adequately raised and supported in appellant's brief].)

⁴ See footnote 1, above.

permanent placement plan has been approved for the child, the court may suspend or terminate visitation between the child and his or parents if the court determines visitation would be detrimental to the physical or emotional well-being of the child. (§ 366.26, subd. (c)(4)(C); cf. *In re Jacob P.* (2007) 157 Cal.App.4th 819, 829 [best interest and detriment “are basically two sides of the same coin. What is in the best interests of the child is essentially the same as that which is not detrimental to the child.”].) On January 22, 2009 the juvenile court determined it was in Joshua’s best interest not to have any contact with Marcella G., but moderated the complete suspension of visitation by authorizing the Department to allow monitored visitation if Joshua told the social worker he wanted to see Marcella G.

Marcella G. did not appeal from the January 22, 2009 order and does not argue in this appeal from the order entered after the July 23, 2009 hearing that the juvenile court’s finding regarding Joshua’s best interest was improper or that it had abused its discretion in so limiting her visitation. To the contrary, she argues the July 23, 2009 visitation order “was significantly different than the order of January 22, 2009 [T]his time the juvenile court did not grant Joshua the authority to agree to or deny Mother’s visits. This time, the juvenile court suspended the visits altogether without any exception” Her current appeal is limited to the purported difference between the January 22, 2009 order and the July 23, 2009 order; she argues the court failed to appropriately exercise its discretion in deciding to suspend all visits without exception.

For reasons not apparent to us, Marcella G. simply misreads the juvenile court’s comment that it could not make Joshua want to see his mother (“I can’t force him to drink your water, Ma’am”) as constituting an order that Marcella G. was no longer entitled to monitored visits with her son even if he expressed his desire to see her. The juvenile court made no such order eliminating Joshua’s right to request a monitored visit. Indeed, at the July 23, 2009 hearing the court made no express visitation order of any sort, simply instructing that all previous orders made by the court, which necessarily included the January 22, 2009 visitation order, would remain in full force and effect.

Although we do not believe there is any ambiguity on that point in the July 23, 2009 order, the possibility of continued visitation between Marcella G. and Joshua was confirmed at the subsequent section 366.3 RPP hearing on January 8, 2010 when the court directed the Department to “assess in their next report the status of the mother and child’s visits.”

An appealed-from judgment or order is presumed correct. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Marcella G. has raised no cognizable claim of reversible error or other defect in the order on appeal and has failed to present any argument or authority on any point that would justify reversal of that order. (See *ibid.*) Accordingly, the July 23, 2009 order is affirmed.

DISPOSITION

The juvenile court’s July 23, 2009 order is affirmed.

PERLUSS, P. J.

We concur:

WOODS, J.

JACKSON, J.